

2009 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB620)

Received: **01/21/2010**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Chuck Benedict (608) 266-9967**

By/Representing: **Kyle Fischer**

This file may be shown to any legislator: **NO**

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Education - school boards**

Extra Copies: **pg**

Submit via email: **YES**

Requester's email: **Rep.Benedict@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

physical fitness assessments and school nutrition

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens 01/26/2010	jdyer 01/27/2010		_____			
/P1	pgrant 02/04/2010	bkraft 02/04/2010	rschluet 01/27/2010	_____	cduerst 01/27/2010		
/1	pgrant 02/05/2010	bkraft 02/05/2010	phenry 02/04/2010	_____	sbasford 02/04/2010	sbasford 02/04/2010	
/2			phenry	_____	lparisi	lparisi	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			02/08/2010 _____		02/08/2010	02/08/2010	

FE Sent For:

<END>

02-09-2010
("1/2")

see
attached

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/P1	pgrant 02/04/2010	bkraft 02/04/2010	rschluet 01/27/2010	_____	cduerst 01/27/2010		
/1			phenry 02/04/2010	<i>JA</i> _____	sbasford 02/04/2010	sbasford 02/04/2010	

1/2 bjk 2/5
pk
2/8

FE Sent For:

<END>

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FE Sent For:

Handwritten notes and signatures:
/1 bjk 2/4
29/10
<END>

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/?	tkuczens	PI 1/27 JLD					
				<END>			

FE Sent For:

Kuczenski, Tracy

From: Fischer, Kyle
Sent: Thursday, January 21, 2010 2:41 PM
To: Kuczenski, Tracy
Subject: Drafting a Substitute Amendment to AB620

Attachments: 2005 AB-1133.pdf



2005 AB-1133.pdf
(10 KB)

Hi Tracy,

Rep. Benedict would like to draft a few changes to AB620 Substitute Amendment 1. We'd actually like them all to be incorporated into a new substitute amendment. Also, we're planning to have an executive session on this bill on February 9th. If there's any way to get this done by February 1st so we can show the new language to the various stakeholders it be very helpful. Here are the changes we're looking at as well as some language that leg council suggested.

- ✓ 1. Change the requirement for fitness testing in high school students from annually to a total of 3 fitness assessments:
On page 2, line 7, delete "12" and substitute "8, and assess the physical fitness of each pupil enrolled in grades 9 to 12 at least 3 times in at least 3 different school years".
- ✓ 2. We'd like to allow diet soda and some low-calorie sports drinks. To accomplish this, we were thinking of using similar language to a bill we introduced in 2005. I attached that bill for your reference. The main difference between this bill and 2005 is that we'd like to use a limit of 40 calories per container rather than 15g of sugar per serving.
- ✓ 3. We'd like to exempt milk and cheese from the dietary requirements.
On page 5, line 16, delete "and seeds" and substitute ", seeds, milk, and cheese". Also, exempt milk and cheese from the saturated fat requirement on page 5, line 18 by starting that line with "Except for milk and cheese, no . . ."
- ✓ 4. The section that lists the fat limit to be 30%, we'd like to increase to 35%. Saturated fat should remain the same. Also, we'd like some comment along the lines of "schools should be encouraged to provide students products that contain healthier fats, such as polyunsaturated and monounsaturated fats rather than saturated or trans fats."

Feel free to e-mail me back or call our office if you have any questions. I'll be in the office tomorrow, but won't be back until Tuesday morning if you need to call. However, I'll be available via e-mail at any time.

Thanks,
Kyle Fischer
Office of Rep. Chuck Benedict

2005 ASSEMBLY BILL 1133

March 21, 2006 – Introduced by Representatives BENEDICT, BERCEAU and TURNER.
Referred to Committee on Education.

1 AN ACT *to renumber* 118.12 (4); and *to create* 118.12 (4) (b) of the statutes;
2 relating to: contracts for the sale of soft drinks in middle schools and high
3 schools.

Analysis by the Legislative Reference Bureau

This bill prohibits a school board from entering into a contract for the sale of soft drinks in a middle school or high school if the contract allows the sale of soft drinks containing more than 15 grams of added sugar per serving.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 118.12 (4) of the statutes is renumbered 118.12 (4) (a).

5 SECTION 2. 118.12 (4) (b) of the statutes is created to read:

6 118.12 (4) (b) If a school board enters into a contract for the sale of soft drinks
7 in one or more middle schools or high schools in the school district, the contract may
8 not permit the sale of soft drinks containing more than 15 grams of added sugar per

40 calories

ASSEMBLY BILL 1133

SECTION 2

1 ^{g container}
2 serving. Nothing in this paragraph prohibits the sale of a beverage that is 100
3 percent fruit juice or vegetable juice.

4 **SECTION 3. Initial applicability.**

5 (1) The creation of section 118.12 (4) (b) of the statutes first applies to a contract
6 entered into or renewed on the effective date of this subsection.

(END)

Kuczenski, Tracy

From: Fischer, Kyle
Sent: Tuesday, January 26, 2010 9:42 AM
To: Kuczenski, Tracy
Subject: RE: Drafting a Substitute Amendment to AB620

Hi Tracy,

Regarding the definition of milk to use, we'd like to use the definitions 97.01(10)(b) and 97.01(10)(c) (essentially limiting the exemption to 2%, 1% and skim). We do not want to create an exemption for ice cream and yogurt already meets the dietary requirements, so it doesn't need any exemption.

Also, We just got the recommendations back from DHS on the issue of flavored milk. I copied and pasted their response below. We'd like to allow chocolate/flavored milk that meets these standards.

Recommendation:

Given the current literature and expert panel support for allowing flavored milk because the nutritional benefits outweigh excess calories and added sugar, we think it is an acceptable inclusion. However, based on the latest nutrition standards and most current and complete synthesis of the available evidence pointing to the need to focus nutrition guidance on increasing milk consumption through the use of low-fat and non-fat dairy products, we recommend the following circumstances for which flavored milk is offered:

- Flavored milk is non-fat (skim) milk;
- has less than 22 grams of added sugar per 8-ounce container;
- and does not include use of non-nutritive sweeteners ?

I hope that clears things up. Let me know if you have any more questions.

Thanks,
Kyle

-----Original Message-----

From: Kuczenski, Tracy
Sent: Thu 1/21/2010 3:03 PM
To: Fischer, Kyle
Subject: RE: Drafting a Substitute Amendment to AB620

Hi Kyle -

A couple of comments:

1. These changes don't seem particularly complicated, so I don't envision there being a problem with preparing a Sub by Feb. 1, if not sooner. I do want to bring to your attention that I will be out of the office between January 30 and Feb. 6, so, if any changes need to be made to the sub, they will be submitted to you on the 8th. Will that pose a problem for you with notice for the executive session? If so, I can ask a colleague to cover those dates for me.

2. Regarding adding milk and cheese to the list of exemptions, do you want to define or in any way limit what those terms mean? Should chocolate or other flavored milk be included? Ice cream? Yogurt? See s. 97.01 (10) and 97.22 (1) (e) for a couple of definitions of milk and s. 97.24 (1) (ar) for a definition of "fluid milk product" (I have a question in to a colleague about whether ice cream and yogurt are included in this last definition).

I think that's all for now.

Tracy

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

-----Original Message-----

From: Fischer, Kyle
Sent: Thursday, January 21, 2010 2:41 PM
To: Kuczenski, Tracy
Subject: Drafting a Substitute Amendment to AB620

Hi Tracy,

Rep. Benedict would like to draft a few changes to AB620 Substitute Amendment 1. We'd actually like them all to be incorporated into a new substitute amendment. Also, we're planning to have an executive session on this bill on February 9th. If there's any way to get this done by February 1st so we can show the new language to the various stakeholders it be very helpful. Here are the changes we're looking at as well as some language that leg council suggested.

1. Change the requirement for fitness testing in high school students from annually to a total of 3 fitness assessments:

On page 2, line 7, delete "12" and substitute "8, and assess the physical fitness of each pupil enrolled in grades 9 to 12 at least 3 times in at least 3 different school years".

2. We'd like to allow diet soda and some low-calorie sports drinks. To accomplish this, we were thinking of using similar language to a bill we introduced in 2005. I attached that bill for your reference. The main difference between this bill and 2005 is that we'd like to use a limit of 40 calories per container rather than 15g of sugar per serving.

3. We'd like to exempt milk and cheese from the dietary requirements.

On page 5, line 16, delete "and seeds" and substitute ", seeds, milk, and cheese". Also, exempt milk and cheese from the saturated fat requirement on page 5, line 18 by starting that line with "Except for milk and cheese, no . . ."

4. The section that lists the fat limit to be 30%, we'd like to increase to 35%.

Saturated fat should remain the same. Also, we'd like some comment along the lines of "schools should be encouraged to provide students products that contain healthier fats, such as polyunsaturated and monounsaturated fats rather than saturated or trans fats."

Feel free to e-mail me back or call our office if you have any questions. I'll be in the office tomorrow, but won't be back until Tuesday morning if you need to call. However, I'll be available via e-mail at any time.

Thanks,
Kyle Fischer
Office of Rep. Chuck Benedict

Kuczenski, Tracy

From: Fischer, Kyle
Sent: Tuesday, January 26, 2010 12:03 PM
To: Kuczenski, Tracy
Subject: FW: Drafting a Substitute Amendment to AB620

-----Original Message-----

From: Meinen, Amy M - DHS [mailto:Amy.Meinen@dhs.wisconsin.gov]

Hi Tracy,

This is what DHS sent me on the idea of "non-nutritive sweeteners." I hope that helps. Let me know if you have any more questions.

-Kyle

Sent: Tue 1/26/2010 11:38 AM

To: Fischer, Kyle

Cc: Currans-Sheehan, Rachel H - DHS

Subject: RE: Drafting a Substitute Amendment to AB620

Hi Kyle-

We were definitely thinking along the lines of aspartame/Splenda mainly because industry may consider using to enhance products due to sugar or calorie restrictions.

Hope this helps.

Amy

NOTICE: This E-mail and any attachments may contain confidential information. Use and further disclosure of the information by the recipient must be consistent with applicable laws, regulations and agreements. If you received this E-mail in error, please notify the sender; delete the E-mail; and do not use, disclose or store the information it contains.

Amy Meinen, MPH, RD, CD

Wisconsin Department of Health Services

Nutrition, Physical Activity & Obesity Program Nutrition Coordinator/Fruit and Vegetable Nutrition Coordinator

1 W. Wilson St., Rm 243

Madison, WI 53703

Phone: (608) 267-9194

Email: Amy.meinen@wisconsin.gov

Fax: (608) 266-3125

Program Website: <http://dhfs.wisconsin.gov/health/physicalactivity/index.htm>

From: Fischer, Kyle [mailto:Kyle.Fischer@legis.wisconsin.gov]

Sent: Tuesday, January 26, 2010 10:59 AM

To: Meinen, Amy M - DHS

Subject: RE: Drafting a Substitute Amendment to AB620

Hi Amy,

The drafter had a question about the meaning of "no non-nutritive sweeteners." She felt that would include things like sugar and high fructose corn syrup. I'm assuming you meant artificial sweeteners like splenda, aspartame, sweet'n'lo etc. If you could just clarify,

I could pass it on to her.

Thanks,
Kyle

-----Original Message-----

From: Meinen, Amy M - DHS [mailto:Amy.Meinen@dhs.wisconsin.gov]
Sent: Tue 1/26/2010 8:45 AM
To: Fischer, Kyle
Cc: Currans-Sheehan, Rachel H - DHS; Pesik, Mary J - DHS; Bingham, Jordan A - DHS; Liebhart, Janice L - DHS; Morgan, Jonathon G - DHS
Subject: RE: Drafting a Substitute Amendment to AB620

Hi Kyle-

Sorry for the slight delay. please see our attached response to your flavored milk question related to the dairy exemption. After reviewing, please let us know if you have any questions about our response or if our program can provide any additional assistance.

Regards,

Amy

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Amy Meinen, MPH, RD, CD
Wisconsin Department of Health Services
Nutrition, Physical Activity & Obesity Program Nutrition Coordinator/Fruit and Vegetable
Nutrition Coordinator
1 W. Wilson St., Rm 243
Madison, WI 53703
Phone: (608) 267-9194
Email: Amy.meinen@wisconsin.gov
Fax: (608) 266-3125
Program Website: <http://dhfs.wisconsin.gov/health/physicalactivity/index.htm>

From: Fischer, Kyle [mailto:Kyle.Fischer@legis.wisconsin.gov]
Sent: Thursday, January 21, 2010 4:17 PM
To: Meinen, Amy M - DHS
Subject: FW: Drafting a Substitute Amendment to AB620

Hi Amy,

We have another question about AB620 that the drafter brought up. You can read bullet point number 2 below, but basically they want a definition of milk and a few other specifics. We're planning on using a definition of milk that restricts the exemption to low fat and skim milk (from s. 97.01 (10)). We have no intention of exempting ice cream and we weren't planning on providing any yogurt exemption because the average fruit on the bottom variety already fits the nutritional requirements to be allowed. We weren't sure about how to handle chocolate or flavored milk. I'm sure adding chocolate or flavoring adds sugar/calories. Are flavored/chocolate milk being served commonly to kids right now? We'd like to be careful about how we handle this. We would greatly appreciate DHS's feedback on how to handle chocolate/flavored milk given the "milk exemption." If there's any chance we could get a response back tomorrow (Friday), it would be really helpful.

Thanks,
-Kyle Fischer

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4. The section that lists the fat limit to be 30%, we'd like to increase to 35%. Saturated fat should remain the same. Also, we'd like some comment along the lines of

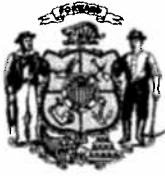
"schools should be encouraged to provide students products that contain healthier fats, such as polyunsaturated and monounsaturated fats rather than saturated or trans fats."

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Thanks,

Kyle Fischer

Office of Rep. Chuck Benedict



State of Wisconsin
2009 - 2010 LEGISLATURE

s0253/PI
LRBs0196/1

TKK:jld/bjk/cjs:md

insert
RMMR

LPS-check
auto refs please
ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2009 ASSEMBLY BILL 620

in 1/26/10
DUE by 1/28/2010

December 17, 2009 - Offered by Representative BENEDICT.

4

Regen

1 AN ACT *to amend* 119.04 (1); and *to create* 118.074 and 118.076 of the statutes;
2 relating to: physical fitness assessments, school nutrition, and granting
3 rule-making authority. ✓

6

Analysis by the Legislative Reference Bureau
This substitute amendment is explained in the NOTES provided by the Joint Legislative Council in the substitute amendment.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This substitute amendment was prepared for the Joint Legislative Council's Special Committee on Performance-Based Disease Management for Large Populations.
The Department of Public Instruction (DPI) and the University of Wisconsin (UW) received a three-year grant, which ends in 2010, to administer the FitnessGram physical fitness test in middle schools that volunteer to participate. The FitnessGram is a software program which is comprised of four tests: body mass index measurement, a quasi-situps abdominal strength test, a flexibility test, and the Progressive Aerobic Cardiovascular Endurance Run (PACER). For all elements of the FitnessGram, age and gender norms have been developed and individual scores are measured against these norms. The PACER is a 20-meter shuttle run (back and forth) which is conducted in a

class-based setting in which 20–50 children can run at a time. The PACER is designed to measure aerobic capacity. The UW has found that the PACER test is a good measure of fitness and a good indicator of diabetes risk.

This substitute amendment directs public schools, charter schools, and private schools to ensure that the physical fitness of pupils in grades 3 through 12 is assessed annually and specifies that the assessment must include an evaluation of pupils' aerobic capacity. These schools are not required to assess pupils who have a disability or other condition as specified by DPI administrative rule. The results must be kept confidential but schools are required to send results to DPI and provide an individual child's results to their parent or guardian.

The national school lunch and school breakfast programs provide federal funding to schools to serve free and reduced-priced meals and snacks. In exchange for receiving federal funds, schools must serve meals and snacks that adhere to federal nutritional requirements set by the U.S. Department of Agriculture (USDA). USDA requires that school lunches must meet the applicable recommendations of the 1995 Dietary Guidelines for Americans, which recommend that no more than 30% of an individual's calories come from fat and less than 10% from saturated fat. Federal guidelines do not apply to or limit the sale of a la carte or vending machine foods sold in addition to federally funded meals and snacks.

The substitute amendment requires all public schools, charter schools, and private schools, beginning in the 2012–13 school year, to use the following requirements for foods sold outside of federally reimbursed USDA meal programs: no more than 30% of its total calories shall be from fat (except for the sale of nuts or seeds), no more than 10% of its total calories shall be from saturated fat and the consumption of whole grains, fresh fruits, and fresh vegetables is encouraged. Soft drinks may not be sold in vending machines at any time of day at school or on school grounds. During the school day until the end of the school day, only water, milk, 100% fruit juice, 100% vegetable juice, or a blend of those juices may be sold on school grounds. One-half hour after the end of the school day, soft drinks that are not sold or dispensed by a vending machine may be sold at school or on school grounds. Candy may not be sold in vending machines at any time of the day at school or on school grounds. Candy that is not sold or dispensed by a vending machine may be sold one-half hour after the end of the school day. School fund raising which involves the sale of food on or off of school grounds is encouraged to follow these requirements. Beginning on July 1, 2011, all public schools, charter schools, and private schools may not enter into, modify or renew a contract with a vending machine operator or vendor unless the terms of the contract that will be in effect on July 1, 2012, comply with the restrictions in the substitute amendment.

1 SECTION 1. 118.074 of the statutes is created to read:

2 **118.074 Assessment of pupil physical fitness.** (1) Beginning in the
3 2010–11 school year, every school board, the operator of every charter school under
4 s. 118.40 (2r), and the governing body of every private school shall do all of the
5 following:

6 (a) Except as provided in sub. (2), annually assess the physical fitness of each
7 pupil enrolled in grades 3 to 12. The assessment shall include an evaluation of the

8, and assess the physical fitness of each pupil enrolled in
the high school grades at least once in 3 different
school years.

1 aerobic capacity of each pupil based upon criterion-referenced standards specific to
2 age and sex and the physical fitness level required for good health.

3 (b) Provide to each pupil and to the parent or guardian of each pupil a copy of
4 the results of the pupil's physical fitness assessment under par. (a).

5 (c) Annually compile the results of the physical fitness assessment conducted
6 under par. (a) and provide a summary of the results to the department. The summary
7 may not contain the names of individual pupils or the teachers or instructional staff
8 of individual pupils. In this paragraph, "instructional staff" has the meaning given
9 in the rules promulgated by the department under s. 121.02 (1) (a) 2.

10 (2) (a) The requirement under sub. (1) (a) does not apply to a pupil for whom
11 the assessment is inappropriate as determined by the state superintendent by rule.

12 (b) The state superintendent shall promulgate rules to implement and
13 administer this section, including all of the following:

14 1. Criteria to determine when the assessment required under sub. (1) (a) is
15 inappropriate for or should not be administered to a pupil.

16 2. The assessment instrument to be used in the assessment required under sub.
17 (1) (a).

NOTE: Directs public schools, charter schools, and private schools to ensure that the physical fitness of pupils enrolled in grades 3 to 12 is assessed annually beginning in the 2010-11 school year. Those schools are not required to assess pupils for whom the assessment is inappropriate, as specified by DPI administrative rule. The assessment must include an evaluation of pupils' aerobic capacity based upon criterion-referenced standards that are specific to a pupil's age and gender and based on the physical fitness level required for good health. The results must be kept confidential, but must be provided to DPI and to a child's parent or guardian.

18 SECTION 2. 118.076 of the statutes is created to read:

19 **118.076 School nutrition. (1)** In this section:

20 (a) "Bottled drinking water" has the meaning given in s. 97.34 (1) (a).

Insert 4-5

1 (b) "Candy" means any food item that has brown sugar, corn sweetener, corn
2 syrup, dextrose, fructose, fruit juice concentrates, glucose, high-fructose corn syrup,
3 honey, invert sugar, lactose, maltose, malt syrup, molasses, raw sugar, sucrose,
4 sugar, or syrup, listed first or second in the list of ingredients.

5 (f) (c) "Soda water beverage" has the meaning given in s. 97.34 (1) (b).

6 (d) "Soft drink" means a soda water beverage that contains brown sugar, corn
7 sweetener, corn syrup, dextrose, fructose, fruit juice concentrates, glucose,
8 high-fructose corn syrup, honey, invert sugar, lactose, maltose, malt syrup,
9 molasses, raw sugar, sucrose, sugar, syrup, artificial sweetener, or stevia, except that
10 "soft drink" does not include a soda water beverage that contains at least 10 percent
11 natural fruit or vegetable juice.

12 (g) (e) "Vending machine" means any self-service device that, upon insertion of
13 coins or currency, or by other means, dispenses unit servings of food or beverage,
14 without the necessity of replenishing the device between each vending operation.

15 (2) (a) Except as provided in par. (c), no school board, operator of a charter
16 school under s. 118.40 (2r), or governing body of a private school may sell candy, or
17 allow the sale of candy from a vending machine or by any vendor, at school or on
18 school grounds.

19 (b) Except as provided in par. (c), no school board, operator of a charter school
20 under s. 118.40 (2r), or governing body of a private school may sell any beverage other
21 than the following, or allow the sale of any beverage other than the following from
22 a vending machine or by any vendor, at school or on school grounds:

23 1. Bottled drinking water.

24 2. ^{Lowfat} Milk, including chocolate milk, to which no flavoring has been added.

25 3. One hundred percent fruit juice.

Insert 4-25

Insert 5-3

- ① ~~4~~ 6 ~~4~~ One hundred percent vegetable juice.
- ② ~~4~~ 7 ~~5~~ A blend of the beverages in ~~subds. 3. and 4.~~ ^{subds. 3. and 4.} ~~3.~~ ⁵ and ~~4.~~ ⁶

3 (c) 1. Beginning 30 minutes after the end of the school day and until the school
 4 is closed for the night, candy and soda water beverages may be sold by a school board,
 5 operator of a charter school under s. 118.40 (2r), governing body of a private school,
 6 or vendor at school or on school grounds.

7 2. Beginning 30 minutes after the end of the school day and until the school is
 8 closed for the night, soda water beverages that contain at least 10 percent natural
 9 fruit or vegetable juice may be sold from a vending machine located at school or on
 10 school grounds.

11 (3) Every school board, the operator of every charter school under s. 118.40 (2r),
 12 and the governing body of every private school shall do all of the following:

13 (a) With the exception of food sold or distributed through the programs under
 14 ss. 115.34, 115.341, 115.343, and 115.345, ensure that all food sold at school or on
 15 school grounds on a school day satisfies the following minimum standards:

16 ① Except for nuts ^{and seeds}, no more than ³⁰ ³⁵ percent of the total calories of
 17 the food come from fat. ^{milk and cheese}

18 ② ~~No more than 10 percent of the total calories of the food come from saturated~~
 19 fats. Except for milk and cheese

20 (b) Encourage the consumption by pupils of whole grains, fresh fruits, and fresh
 21 vegetables.

Insert 5-22

22 ~~(d)~~ ^(c) Encourage parent teacher organizations, school clubs, school teams, and
 23 other school groups conducting fund raising in which the sale of food is involved to
 24 follow the standards, policies, and requirements established in pars. (a) and (b) and
 25 sub. (2). ^{and (c)}

60 and 96

(S)

1

SECTION 3. 119.04 (1) of the statutes, as affected by 2009 Wisconsin Act 60, is

2

amended to read:

3

119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),

4

66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,

5

115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045,

6

118.06, 118.07, 118.074, 118.075, 118.10, 118.12, 118.125 to 118.14, 118.145 (4),

7

118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.225,

8

118.24 (1), (2) (c) to (f), (6) and (8), 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51,

9

118.52, 118.55, 120.12 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b) to (g), (3), (14),

10

(17) to (19), (26), (34), (35), (37), (37m), and (38), 120.14, 120.21 (3), and 120.25 are

11

applicable to a 1st class city school district and board.

12

SECTION 4. Nonstatutory provisions.

13

(1) No school board, operator of a charter school under section 118.40 (2r) of the

14

statutes, or operator of a private school, as defined under section 115.001 (3r) of the

15

statutes, may enter into, modify, or renew a contract with a vending machine

16

operator or a vendor unless the terms of the contract in effect on July 1, 2012, comply

17

with the requirements of section 118.076 (2) and (3)(a) of the statutes, as created by this act.

18

SECTION 5. Initial applicability.

19

(1) The treatment of section 118.076 (2) and (3) (a) of the statutes first applies

20

to a contract between a vendor or a vending machine operator and a school board,

21

operator of a charter school under section 118.40 (2r) of the statutes, or governing

22

body of a private school, as defined in section 115.001 (3r) of the statutes, entered

23

into, modified, or renewed on July 1, 2012.

24

SECTION 6. Effective dates. This act takes effect on the day after publication,

25

except as follows:

1 (1) The treatment of section 118.076 of the statutes takes effect on July 1, 2012.

a.r. → *a.r.* ✓

2

(2) SECTION 4 (1) of this act takes effect on July 1, 2011.

6

NOTE: Requires all public schools, charter schools, and private schools, beginning in the 2012–13 school year, to use the following requirements for foods sold outside of federally reimbursed USDA meal programs: no more than 30% of its total calories shall be from fat (except for the sale of nuts or seeds), no more than 10% of its total calories shall be from saturated fat and the consumption of whole grains, fresh fruits, and fresh vegetables is encouraged. Soft drinks may not be sold in vending machines at any time of day at school or on school grounds. During the school day until the end of the school day, only water, milk, 100% fruit juice, 100% vegetable juice, or a blend of those juices may be sold on school grounds. One-half hour after the end of the school day, soft drinks that are not sold or dispensed by a vending machine may be sold at school or on school grounds. Candy may not be sold in vending machines at any time of the day at school or on school grounds. Candy that is not sold or dispensed by a vending machine may be sold one-half hour after the end of the school day. School fund raising which involves the sale of food on or off of school grounds is encouraged to follow these requirements. Beginning on July 1, 2011, all public schools, charter schools, and private schools may not enter into, modify or renew a contract with a vending machine operator or vendor unless the terms of the contract that will be in effect on July 1, 2012, comply with the restrictions in the substitute amendment.

3

(END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0253/2118
TKK:.....

1

Insert 4-5

2

(c) "Lowfat milk" has the meaning ^{given} ~~give~~ in s. 97.01 (10) (b). ✓

3

(d) "Milk" means lowfat milk and skim milk. ✓

4

(e) "Skim milk" has the meaning given in s. 97.01 (10) (c). ✓

5

Insert 4-25

6

3. Skim milk to which no flavoring has been added. ✓

7

4. Skim milk to which flavoring has been added if all of the following apply:

8

a. The skim milk contains no more than 22 grams of added sugar. ✓

9

b. The skim milk does not contain any artificially synthesized sugar

10

substitutes. ✓

11

Insert 5-3

12

8. Soda water beverages containing no more than 40 calories per container. ✓

13

Insert 5-22

14

(c) To the extent practicable, when serving or providing to pupils food that

15

contains fats, serve and provide foods that contain polyunsaturated or

16

monounsaturated fats rather than saturated fats or trans-fatty acids. ✓

Grant, Peter

From: Fischer, Kyle
Sent: Thursday, February 04, 2010 1:50 PM
To: Grant, Peter
Subject: RE: Drafting a Substitute Amendment to AB620

Hi Peter,
The following is the advice I got from DHS on this issue:

6. Annually Compiling FitnessGram Results (page 2, lines 7-11): The line reads, "Annually compile the results of the physical fitness assessment conducted under par. (a) and provide a summary of the results to the department". Our program strongly recommends that the phrase "a summary of the results" be removed and replaced with "the results" or "individual deidentified data". If schools simply provide summary information, we will not be able to adequately assess state-level values. The exact procedures for submitting data can be determined and communicated to schools well before the first required submission.

It seems like they're mainly concerned that a summary version will lose the ability to analyze the data. By individual deidentified data, I think they just meant the students, so I don't think the teachers/instructional staff is necessary. "Annually report the results of the physical fitness assessments conducted under par. (a) to the department. The report may not contain the names of individual pupils." seems sufficient.

-Kyle

Kyle, my only question concerns the change on page 7, line 8. I'm unclear about what you want the schools to report to DPI. Since it now looks like you want the schools to report individual data and not a summary, I think the word "compile" may be incorrect. How about if it read, starting on line 7, "Annually report the results of the physical fitness assessments conducted under par. (a) to the department. The report may not contain the names of individual pupils or the teachers or instructional staff of individual pupils." Would that accomplish your intent?

Peter

-----Original Message-----

From: Fischer, Kyle
Sent: Thursday, February 04, 2010 1:07 PM
To: Grant, Peter
Subject: FW: Drafting a Substitute Amendment to AB620

Hi Peter,
We had DHS and DPI take a look at Tracy's preliminary draft of AB620 Sub 2. We'd like a few small changes. First, on page 3, line 22 about flavored milk, we'd like to change it to "less than 22 grams of TOTAL sugar per 8 ounce container." For the fitness gram testing, on page 1, lines 9-10 and page 2 line 1, we'd like to clarify that in high school, it is required "at least once in EACH OF THREE DIFFERENT school years." Finally, on page 2, lines 7-11, it discusses the distribution of fitness gram results to the department. Rather than read "and provide a summary of the results to the department" we'd like it to read "and provide individual deidentified data to the department." I've attached the preliminary version Tracy sent us in case that helps. Feel free to call if you have any questions.
Thanks again,
Kyle

-----Original Message-----

From: Kuczenski, Tracy
Sent: Thu 1/21/2010 3:03 PM
To: Fischer, Kyle

Subject: RE: Drafting a Substitute Amendment to AB620

Hi Kyle -

A couple of comments:

1. These changes don't seem particularly complicated, so I don't envision there being a problem with preparing a Sub by Feb. 1, if not sooner. I do want to bring to your attention that I will be out of the office between January 30 and Feb. 6, so, if any changes need to be made to the sub, they will be submitted to you on the 8th. Will that pose a problem for you with notice for the executive session? If so, I can ask a colleague to cover those dates for me.

2. Regarding adding milk and cheese to the list of exemptions, do you want to define or in any way limit what those terms mean? Should chocolate or other flavored milk be included? Ice cream? Yogurt? See s. 97.01 (10) and 97.22 (1) (e) for a couple of definitions of milk and s. 97.24 (1) (ar) for a definition of "fluid milk product" (I have a question in to a colleague about whether ice cream and yogurt are included in this last definition).

I think that's all for now.

Tracy

Tracy K. Kuczenski
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Wisconsin Legislative Reference Bureau
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-----Original Message-----

From: Fischer, Kyle
Sent: Thursday, January 21, 2010 2:41 PM
To: Kuczenski, Tracy
Subject: Drafting a Substitute Amendment to AB620

Hi Tracy,

Rep. Benedict would like to draft a few changes to AB620 Substitute Amendment 1. We'd actually like them all to be incorporated into a new substitute amendment. Also, we're planning to have an executive session on this bill on February 9th. If there's any way to get this done by February 1st so we can show the new language to the various stakeholders it be very helpful. Here are the changes we're looking at as well as some language that leg council suggested.

1. Change the requirement for fitness testing in high school students from annually to a total of 3 fitness assessments:

On page 2, line 7, delete "12" and substitute "8, and assess the physical fitness of each pupil enrolled in grades 9 to 12 at least 3 times in at least 3 different school years".

2. We'd like to allow diet soda and some low-calorie sports drinks. To accomplish this, we were thinking of using similar language to a bill we introduced in 2005. I attached that bill for your reference. The main difference between this bill and 2005 is that we'd like to use a limit of 40 calories per container rather than 15g of sugar per serving.

3. We'd like to exempt milk and cheese from the dietary requirements.

On page 5, line 16, delete "and seeds" and substitute ", seeds, milk, and cheese". Also, exempt milk and cheese from the saturated fat requirement on page 5, line 18 by starting that line with "Except for milk and cheese, no . . ."

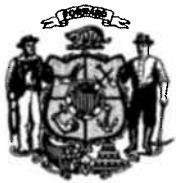
4. The section that lists the fat limit to be 30%, we'd like to increase to 35%.

Saturated fat should remain the same. Also, we'd like some comment along the lines of "schools should be encouraged to provide students products that contain healthier fats, such as polyunsaturated and monounsaturated fats rather than saturated or trans fats."

Feel free to e-mail me back or call our office if you have any questions. I'll be in the

office tomorrow, but won't be back until Tuesday morning if you need to call. However, I'll be available via e-mail at any time.

Thanks,
Kyle Fischer
Office of Rep. Chuck Benedict



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBs0253/P

TKK:jld/bjk/cjs:rs

FRIDAY
a.m.

stays

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY SUBSTITUTE AMENDMENT,

TO 2009 ASSEMBLY BILL 620

(P 99 2:3)

SA

re-gen.

1 AN ACT *to amend* 119.04 (1); and *to create* 118.074 and 118.076 of the statutes;
2 relating to: physical fitness assessments, school nutrition, and granting
3 rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 118.074 of the statutes is created to read:

5 118.074 Assessment of pupil physical fitness. (1) Beginning in the
6 2010-11 school year, every school board, the operator of every charter school under
7 s. 118.40 (2r), and the governing body of every private school shall do all of the
8 following:

9 (a) Except as provided in sub. (2), annually assess the physical fitness of each
10 pupil enrolled in grades 3 to 8 and assess the physical fitness of each pupil enrolled

each of

1 in the high school grades at least once in 3 different school years. The assessment
2 shall include an evaluation of the aerobic capacity of each pupil based upon
3 criterion-referenced standards specific to age and sex and the physical fitness level
4 required for good health.

5 (b) Provide to each pupil, and to the parent or guardian of each pupil, a copy of
6 the results of the pupil's physical fitness assessment under par. (a).

7 (c) Annually ^{report} ~~submit~~ the results of the physical fitness assessment ^s conducted
8 under par. (a) ~~and provide a summary of the results~~ to the department. The ~~summary~~ ^{report}
9 may not contain the names of individual pupils ~~or the teachers or instructional staff~~
10 ~~of individual pupils~~. ^e ~~In this paragraph, "instructional staff" has the meaning given~~
11 ~~in the rules promulgated by the department under s. 121.02 (1) (a) 2.~~

12 (2) (a) The requirement under sub. (1) (a) does not apply to a pupil for whom
13 ^{an} ~~the~~ assessment is inappropriate, as determined by the state superintendent by rule.

14 (b) The state superintendent shall promulgate rules to implement and
15 administer this section, including all of the following:

16 1. Criteria to determine when ^{an} ~~the~~ assessment required under sub. (1) (a) is
17 inappropriate for, or should not be administered to, a pupil.

18 2. The assessment instrument to be used in ^{an} ~~the~~ assessment required under sub.

19 (1) (a).

20 SECTION 2. 118.076 of the statutes is created to read:

21 118.076 School nutrition. (1) In this section:

22 (a) "Bottled drinking water" has the meaning given in s. 97.34 (1) (a).

23 (b) "Candy" means any food item that has brown sugar, corn sweetener, corn
24 syrup, dextrose, fructose, fruit juice concentrates, glucose, high-fructose corn syrup,

1 honey, invert sugar, lactose, maltose, malt syrup, molasses, raw sugar, sucrose,
2 sugar, or syrup, listed first or second in the list of ingredients.

3 (c) “Lowfat milk” has the meaning given in s. 97.01 (10) (b).

4 (d) “Milk” means lowfat milk and skim milk.

5 (e) “Skim milk” has the meaning given in s. 97.01 (10) (c).

6 (f) “Soda water beverage” has the meaning given in s. 97.34 (1) (b).

7 (g) “Vending machine” means any self-service device that, upon insertion of
8 coins or currency, or by other means, dispenses unit servings of food or beverage,
9 without the necessity of replenishing the device between each vending operation.

10 (2) (a) Except as provided in par. (c), no school board, operator of a charter
11 school under s. 118.40 (2r), or governing body of a private school may sell candy, or
12 allow the sale of candy from a vending machine or by any vendor, at school or on
13 school grounds.

14 (b) Except as provided in par. (c), no school board, operator of a charter school
15 under s. 118.40 (2r), or governing body of a private school may sell any beverage other
16 than the following, or allow the sale of any beverage other than the following from
17 a vending machine or by any vendor, at school or on school grounds:

18 1. Bottled drinking water.

19 2. Lowfat milk to which no flavoring has been added.

20 3. Skim milk to which no flavoring has been added.

21 4. Skim milk to which flavoring has been added if all of the following apply:

22 a. The skim milk contains ~~no more~~ ^{less} than 22 grams of ~~added~~ ^{total} sugar ^{per 8 ounce container}

23 b. The skim milk does not contain any artificially synthesized sugar
24 substitutes.

25 5. One hundred percent fruit juice.

1 6. One hundred percent vegetable juice.

2 7. A blend of the beverages in subds. 5. and 6.

3 8. Soda water beverages containing no more than 40 calories per container.

4 (c) 1. Beginning 30 minutes after the end of the school day and until the school
5 is closed for the night, candy and soda water beverages may be sold by a school board,
6 operator of a charter school under s. 118.40 (2r), governing body of a private school,
7 or vendor at school or on school grounds.

8 2. Beginning 30 minutes after the end of the school day and until the school is
9 closed for the night, soda water beverages that contain at least 10 percent natural
10 fruit or vegetable juice may be sold from a vending machine located at school or on
11 school grounds.

12 (3) Every school board, the operator of every charter school under s. 118.40 (2r),
13 and the governing body of every private school shall do all of the following:

14 (a) With the exception of food sold or distributed through the programs under
15 ss. 115.34, 115.341, 115.343, and 115.345, ensure that all food sold at school or on
16 school grounds on a school day satisfies the following minimum standards:

17 1. Except for nuts, seeds, milk, and cheese, no more than 35 percent of the total
18 calories of the food come from fat.

19 2. Except for milk and cheese, no more than 10 percent of the total calories of
20 the food come from saturated fats.

21 (b) Encourage the consumption by pupils of whole grains, fresh fruits, and fresh
22 vegetables.

23 (c) To the extent practicable, when serving or providing to pupils food that
24 contains fats, serve and provide foods that contain polyunsaturated or
25 monounsaturated fats rather than saturated fats or trans-fatty acids.

1 (d) Encourage parent teacher organizations, school clubs, school teams, and
2 other school groups conducting fund raising in which the sale of food is involved to
3 follow the standards, policies, and requirements established in pars. (a), (b), and (c)
4 and sub. (2).

5 **SECTION 3.** 119.04 (1) of the statutes, as affected by 2009 Wisconsin Acts 60 and
6 96, is amended to read:

7 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
8 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
9 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045,
10 118.06, 118.07, 118.074, 118.075, 118.076, 118.10, 118.12, 118.125 to 118.14, 118.145
11 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20,
12 118.225, 118.24 (1), (2) (c) to (f), (6) and (8), 118.255, 118.258, 118.291, 118.30 to
13 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b)
14 to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.14, 120.21 (3),
15 and 120.25 are applicable to a 1st class city school district and board.

16 **SECTION 4. Nonstatutory provisions.**

17 (1) No school board, operator of a charter school under section 118.40 (2r) of the
18 statutes, or operator of a private school, as defined under section 115.001 (3r) of the
19 statutes, may enter into, modify, or renew a contract with a vending machine
20 operator or a vendor unless the terms of the contract in effect on July 1, 2012, comply
21 with the requirements of section 118.076 (2) and (3) of the statutes, as created by this
22 act.

23 **SECTION 5. Initial applicability.**

24 (1) The treatment of section 118.076 (2) and (3) (a) of the statutes first applies
25 to a contract between a vendor or a vending machine operator and a school board,

1 operator of a charter school under section 118.40 (2r) of the statutes, or governing
2 body of a private school, as defined in section 115.001 (3r) of the statutes, entered
3 into, modified, or renewed on July 1, 2012.

4 **SECTION 6. Effective dates.** This act takes effect on the day after publication,
5 except as follows:

6 (1) The treatment of section 118.076 of the statutes takes effect on July 1, 2012.

7 (2) SECTION 4 (1) of this act takes effect on July 1, 2011.

8 (END)

Grant, Peter

From: Fischer, Kyle
Sent: Friday, February 05, 2010 1:41 PM
To: Grant, Peter; Kuczenski, Tracy
Subject: RE: Drafting a Substitute Amendment to AB620

Hi Peter,

Thank you for the re-draft. We sent it to DHS/DPI/Leg counsel just for a final look and think we need one more change. A few folks at DHS were worried about a potential loophole where schools could enter into a new, long-term contract before next year and then get around it for longer. We asked Dick Sweet about it at Leg counsel and he offered the following suggestions. Our intent is that we don't disrupt existing contracts, but at the same time, make sure any new contracts after the bill is signed are subject to the new requirements.

I think the way to accomplish that is to: (1) change the nonstatutory provision to add "on or after the effective date of this subsection" after "vendor" on page 5, line 18; (2) delete the initial applicability clause; and (3) change the effective date clause by deleting the part about SECTION 4(1), which means that would take effect on the day after publication. Just my thoughts, and Tracy may have a different approach to accomplish this. I believe this will keep in place existing contracts and require that new contracts include provisions that will require the parties to be in compliance as of 7/1/12.

Dick

We'll send the stripes back today. We're still planning on holding the exec on it on Thursday, so if we could get it taken care of as soon as possible, that would be extremely helpful. Feel free to give me a call (4-8625). Sorry we didn't have this for you earlier.

-Kyle

-----Original Message-----

From: Grant, Peter
Sent: Thursday, February 04, 2010 1:52 PM
To: Fischer, Kyle
Subject: RE: Drafting a Substitute Amendment to AB620

Thanks, Kyle. You'll have the redraft tomorrow morning.

-----Original Message-----

From: Fischer, Kyle
Sent: Thursday, February 04, 2010 1:50 PM
To: Grant, Peter
Subject: RE: Drafting a Substitute Amendment to AB620

Hi Peter,

The following is the advice I got from DHS on this issue:

6. Annually Compiling FitnessGram Results (page 2, lines 7-11): The line reads, "Annually compile the results of the physical fitness assessment conducted under par. (a) and provide a summary of the results to the department". Our program strongly recommends that the phrase "a summary of the results" be removed and replaced with "the results" or "individual deidentified data". If schools simply provide summary information, we will not be able to adequately assess state-level values. The exact procedures for submitting data can be determined and communicated to schools well before the first required submission.

It seems like they're mainly concerned that a summary version will lose the ability to analyze the data. By individual deidentified data, I think they just meant the students, so I don't think the teachers/instructional staff is necessary. "Annually report the results of the physical fitness assessments conducted under par. (a) to the department. The report may not contain the names of individual pupils." seems sufficient.

=Kyle

Kyle, my only question concerns the change on page 7, line 8. I'm unclear about what you want the schools to report to DPI. Since it now looks like you want the schools to report individual data and not a summary, I think the word "compile" may be incorrect. How about if it read, starting on line 7, "Annually report the results of the physical fitness assessments conducted under par. (a) to the department. The report may not contain the names of individual pupils or the teachers or instructional staff of individual pupils." Would that accomplish your intent?

Peter

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Sent: Thursday, February 04, 2010 1:07 PM
To: Grant, Peter
Subject: FW: Drafting a Substitute Amendment to AB620

Hi Peter,

We had DHS and DPI take a look at Tracy's preliminary draft of AB620 Sub 2. We'd like a few small changes. First, on page 3, line 22 about flavored milk, we'd like to change it to "less than 22 grams of TOTAL sugar per 8 ounce container." For the fitness gram testing, on page 1, lines 9-10 and page 2 line 1, we'd like to clarify that in high school, it is required "at least once in EACH OF THREE DIFFERENT school years." Finally, on page 2, lines 7-11, it discusses the distribution of fitness gram results to the department. Rather than read "and provide a summary of the results to the department" we'd like it to read "and provide individual deidentified data to the department." I've attached the preliminary version Tracy sent us in case that helps. Feel free to call if you have any questions.

Thanks again,

Kyle

-----Original Message-----

From: Kuczenski, Tracy
Sent: Thu 1/21/2010 3:03 PM
To: Fischer, Kyle
Subject: RE: Drafting a Substitute Amendment to AB620

Hi Kyle -

A couple of comments:

1. These changes don't seem particularly complicated, so I don't envision there being a problem with preparing a Sub by Feb. 1, if not sooner. I do want to bring to your attention that I will be out of the office between January 30 and Feb. 6, so, if any changes need to be made to the sub, they will be submitted to you on the 8th. Will that pose a problem for you with notice for the executive session? If so, I can ask a colleague to cover those dates for me.

2. Regarding adding milk and cheese to the list of exemptions, do you want to define or in any way limit what those terms mean? Should chocolate or other flavored milk be included? Ice cream? Yogurt? See s. 97.01 (10) and 97.22 (1) (e) for a couple of definitions of milk and s. 97.24 (1) (ar) for a definition of "fluid milk product" (I have a question in to a colleague about whether ice cream and yogurt are included in this last definition).

I think that's all for now.

Tracy

Tracy K. Kuczenski
Legislative Attorney

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(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

-----Original Message-----

From: Fischer, Kyle
Sent: Thursday, January 21, 2010 2:41 PM
To: Kuczenski, Tracy
Subject: Drafting a Substitute Amendment to AB620

Hi Tracy,

Rep. Benedict would like to draft a few changes to AB620 Substitute Amendment 1. We'd actually like them all to be incorporated into a new substitute amendment. Also, we're planning to have an executive session on this bill on February 9th. If there's any way to get this done by February 1st so we can show the new language to the various stakeholders it be very helpful. Here are the changes we're looking at as well as some language that leg council suggested.

1. Change the requirement for fitness testing in high school students from annually to a total of 3 fitness assessments:

On page 2, line 7, delete "12" and substitute "8, and assess the physical fitness of each pupil enrolled in grades 9 to 12 at least 3 times in at least 3 different school years".

2. We'd like to allow diet soda and some low-calorie sports drinks. To accomplish this, we were thinking of using similar language to a bill we introduced in 2005. I attached that bill for your reference. The main difference between this bill and 2005 is that we'd like to use a limit of 40 calories per container rather than 15g of sugar per serving.

3. We'd like to exempt milk and cheese from the dietary requirements.

On page 5, line 16, delete "and seeds" and substitute ", seeds, milk, and cheese". Also, exempt milk and cheese from the saturated fat requirement on page 5, line 18 by starting that line with "Except for milk and cheese, no . . ."

4. The section that lists the fat limit to be 30%, we'd like to increase to 35%.

Saturated fat should remain the same. Also, we'd like some comment along the lines of "schools should be encouraged to provide students products that contain healthier fats, such as polyunsaturated and monounsaturated fats rather than saturated or trans fats."

Feel free to e-mail me back or call our office if you have any questions. I'll be in the office tomorrow, but won't be back until Tuesday morning if you need to call. However, I'll be available via e-mail at any time.

Thanks,
Kyle Fischer
Office of Rep. Chuck Benedict



Monday

LRBs0253/8
TKK:jld/bjk/cjs:rs
2
stays

**ASSEMBLY SUBSTITUTE AMENDMENT ,
TO 2009 ASSEMBLY BILL 620**

PP-5 & 6

SA

regun.

1 **AN ACT to amend** 119.04 (1); and **to create** 118.074 and 118.076 of the statutes;
2 **relating to:** physical fitness assessments, school nutrition, and granting
3 rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 118.074 of the statutes is created to read:

5 **118.074 Assessment of pupil physical fitness.** (1) Beginning in the
6 2010-11 school year, every school board, the operator of every charter school under
7 s. 118.40 (2r), and the governing body of every private school shall do all of the
8 following:

9 (a) Except as provided in sub. (2), annually assess the physical fitness of each
10 pupil enrolled in grades 3 to 8, and assess the physical fitness of each pupil enrolled
11 in the high school grades at least once in each of 3 different school years. The

1 assessment shall include an evaluation of the aerobic capacity of each pupil based
2 upon criterion-referenced standards specific to age and sex and the physical fitness
3 level required for good health.

4 (b) Provide to each pupil, and to the parent or guardian of each pupil, a copy
5 of the results of the pupil's physical fitness assessment under par. (a).

6 (c) Annually report the results of the physical fitness assessments conducted
7 under par. (a) to the department. The report may not contain the names of individual
8 pupils.

9 (2) (a) The requirement under sub. (1) (a) does not apply to a pupil for whom
10 an assessment is inappropriate, as determined by the state superintendent by rule.

11 (b) The state superintendent shall promulgate rules to implement and
12 administer this section, including all of the following:

13 1. Criteria to determine when an assessment required under sub. (1) (a) is
14 inappropriate for, or should not be administered to, a pupil.

15 2. The assessment instrument to be used in an assessment required under sub.
16 (1) (a).

17 **SECTION 2.** 118.076 of the statutes is created to read:

18 **118.076 School nutrition.** (1) In this section:

19 (a) "Bottled drinking water" has the meaning given in s. 97.34 (1) (a).

20 (b) "Candy" means any food item that has brown sugar, corn sweetener, corn
21 syrup, dextrose, fructose, fruit juice concentrates, glucose, high-fructose corn syrup,
22 honey, invert sugar, lactose, maltose, malt syrup, molasses, raw sugar, sucrose,
23 sugar, or syrup, listed first or second in the list of ingredients.

24 (c) "Lowfat milk" has the meaning given in s. 97.01 (10) (b).

25 (d) "Milk" means lowfat milk and skim milk.

1 (e) “Skim milk” has the meaning given in s. 97.01 (10) (c).

2 (f) “Soda water beverage” has the meaning given in s. 97.34 (1) (b).

3 (g) “Vending machine” means any self–service device that, upon insertion of
4 coins or currency, or by other means, dispenses unit servings of food or beverage,
5 without the necessity of replenishing the device between each vending operation.

6 (2) (a) Except as provided in par. (c), no school board, operator of a charter
7 school under s. 118.40 (2r), or governing body of a private school may sell candy, or
8 allow the sale of candy from a vending machine or by any vendor, at school or on
9 school grounds.

10 (b) Except as provided in par. (c), no school board, operator of a charter school
11 under s. 118.40 (2r), or governing body of a private school may sell any beverage other
12 than the following, or allow the sale of any beverage other than the following from
13 a vending machine or by any vendor, at school or on school grounds:

14 1. Bottled drinking water.

15 2. Lowfat milk to which no flavoring has been added.

16 3. Skim milk to which no flavoring has been added.

17 4. Skim milk to which flavoring has been added if all of the following apply:

18 a. The skim milk contains less than 22 grams of total sugar per 8 ounce
19 container.

20 b. The skim milk does not contain any artificially synthesized sugar
21 substitutes.

22 5. One hundred percent fruit juice.

23 6. One hundred percent vegetable juice.

24 7. A blend of the beverages in subds. 5. and 6.

25 8. Soda water beverages containing no more than 40 calories per container.

1 (c) 1. Beginning 30 minutes after the end of the school day and until the school
2 is closed for the night, candy and soda water beverages may be sold by a school board,
3 operator of a charter school under s. 118.40 (2r), governing body of a private school,
4 or vendor at school or on school grounds.

5 2. Beginning 30 minutes after the end of the school day and until the school is
6 closed for the night, soda water beverages that contain at least 10 percent natural
7 fruit or vegetable juice may be sold from a vending machine located at school or on
8 school grounds.

9 (3) Every school board, the operator of every charter school under s. 118.40 (2r),
10 and the governing body of every private school shall do all of the following:

11 (a) With the exception of food sold or distributed through the programs under
12 ss. 115.34, 115.341, 115.343, and 115.345, ensure that all food sold at school or on
13 school grounds on a school day satisfies the following minimum standards:

14 1. Except for nuts, seeds, milk, and cheese, no more than 35 percent of the total
15 calories of the food come from fat.

16 2. Except for milk and cheese, no more than 10 percent of the total calories of
17 the food come from saturated fats.

18 (b) Encourage the consumption by pupils of whole grains, fresh fruits, and fresh
19 vegetables.

20 (c) To the extent practicable, when serving or providing to pupils food that
21 contains fats, serve and provide foods that contain polyunsaturated or
22 monounsaturated fats rather than saturated fats or trans-fatty acids.

23 (d) Encourage parent teacher organizations, school clubs, school teams, and
24 other school groups conducting fund raising in which the sale of food is involved to

1 follow the standards, policies, and requirements established in pars. (a), (b), and (c)
2 and sub. (2).

3 **SECTION 3.** 119.04 (1) of the statutes, as affected by 2009 Wisconsin Acts 60 and
4 96, is amended to read:

5 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
6 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
7 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045,
8 118.06, 118.07, 118.074, 118.075, 118.076, 118.10, 118.12, 118.125 to 118.14, 118.145
9 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20,
10 118.225, 118.24 (1), (2) (c) to (f), (6) and (8), 118.255, 118.258, 118.291, 118.30 to
11 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b)
12 to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.14, 120.21 (3),
13 and 120.25 are applicable to a 1st class city school district and board.

14 **SECTION 4. Nonstatutory provisions.**

15 (1) No school board, operator of a charter school under section 118.40 (2r) of the
16 statutes, or operator of a private school, as defined under section 115.001 (3r) of the
17 statutes, may enter into, modify, or renew a contract with a vending machine
18 operator or a vendor unless the terms of the contract in effect on July 1, 2012, comply
19 with the requirements of section 118.076 (2) and (3) of the statutes, as created by this
20 act.

21 **SECTION 5. Initial applicability.**

22 (1) The treatment of section 118.076 (2) and (3) (a) of the statutes first applies
23 to a contract between a vendor or a vending machine operator and a school board,
24 operator of a charter school under section 118.40 (2r) of the statutes, or governing

1 body of a private school, as defined in section 115.001 (3r) of the statutes, entered
2 into, modified, or renewed on July 1, 2012.

3 **SECTION 6. Effective dates.** This act takes effect on the day after publication,
4 except as follows:

5 (1) The treatment of section 118.076 of the statutes takes effect on July 1, 2012.

6 ~~(2) SECTION 4 (1) of this act takes effect on July 1, 2011.~~

7 (END)

Barman, Mike

From: Basford, Sarah
Sent: Tuesday, February 09, 2010 9:41 AM
To: Barman, Mike
Subject: FW: Attn Mike Barman: Request for Fiscal note

Attachments: 09s02532.pdf



09s02532.pdf (25 KB)

Sarah Basford
Senior Program Assistant
Legislative Reference Bureau
1 East Main, Suite 200
(608) 266-3561
sarah.basford@legis.wisconsin.gov

-----Original Message-----

From: Fischer, Kyle
Sent: Tuesday, February 09, 2010 9:40 AM
To: LRB.Legal
Cc: Kammerud, Jennifer A - DPI; Currans-Sheehan, Rachel H - DHS
Subject: Attn Mike Barman: Request for Fiscal note

Hi Mike,
We would like to request a fiscal note for the substitute amendment to AB620. There have been a few iterations of this bill and I have attached the latest version (LRBs0253/2). Specifically, some public health committee members were concerned about costs associated with the PACER fitness testing. We are planning on holding an exec on Thursday and the bill will likely go to the floor next week, so expediency would be greatly appreciated. Thanks,
Kyle Fischer
Office of Rep. Benedict

02-09-2010
Even though the original bill did not call for an "FE" the drafter (TKK) oked having a "supplemental" FE prepared without having one prepared on the original bill (which is quite different) → still needs to be authorized by the speakers office.
MB

Barman, Mike

From: Barman, Mike
Sent: Tuesday, February 09, 2010 9:55 AM
To: Fischer, Kyle
Cc: Rep.Benedict
Subject: FE's - Supplemental FE E-Mail.doc



As we discussed, please see Joint Rule 41 (3) (b) below ...

An e-mail request sent by either the President's or the Speaker's office to both the fiscal estimate coordinator at DOA (fes@doa.state.wi.us) (Attn: Linda Nelson) and the LRB (lrb.legal@legis.wisconsin.gov) (Attn: Mike Barman) is the best (fastest) way to go.

1. In the e-mail please quote the Joint Rule that applies.
2. Please note the Introduction and LRB number of the bill, substitute amendment or simple amendment the fiscal estimate is to based on.
3. Please state the agency(s) requested to prepare the "supplemental" fiscal estimate.

Feel free to contact me if you have any questions.

Mike Barman (Lead Program Assistant)

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.state.wi.us

Alternative Fiscal Estimate Options

Fiscal estimates initiated by the bill's primary author (sponsor):

1. **Before the fiscal estimate is "released" (during the five-day review period) ... the primary author of an introduced bill may contact the agency that prepared the *original* fiscal estimate, explain his or her concerns, and request a rewrite. If the agency agrees to rewrite the estimate and the primary author wishes to delay publication, the agency must immediately notify the Department of Administration (DOA) and the Legislative Reference Bureau (LRB). The fiscal estimate will then be returned to the agency for a rewrite. The rewritten fiscal estimate will be the only *original* fiscal estimate "released" (published and inserted into the bill jacket envelope). However, both the rewritten and the initial *original* fiscal estimates will be available for public inspection in the LRB drafting file. If the agency opts not to rewrite the fiscal estimate, it will be "released" by the LRB at the end of the five day review period. See Joint Rule 48 (4).**
2. **Before the fiscal estimate is "released" (during the five-day review period) ... the primary author of an introduced bill may request that a new *original* fiscal estimate be prepared that takes into account any changes resulting from a proposed simple or substitute amendment (whether offered for introduction or not). See Joint Rule 48 (2).**
3. **The primary author of an introduced bill may request that the Legislative Fiscal Bureau (LFB) or DOA prepare a *supplemental* fiscal estimate if he or she disagrees with the fiscal estimate for the bill prepared by the state agency. See Joint Rule 48 (3).**
4. **The primary author of an introduced bill may contact the presiding officer (of either house) and request a *supplemental* fiscal estimate that takes into account any changes resulting from a proposed simple or substitute amendment. If the**

02/09/2010

presiding officer agrees that a *supplemental* fiscal estimate on the bill (as affected by the proposed amendment) would be substantially different from the *original* fiscal estimate submitted by the state agency, they may formally submit a request (in writing – via e-mail to the LRB) to have the agency prepare a *supplemental* fiscal estimate. See Joint Rule 41 (3) (b).

5. The state agency may, at its discretion, submit an *updated* fiscal estimate supplementing its *original* estimate if it has available better or more current information on the bill. If the primary author of the bill feels the *original* fiscal estimate is inaccurate, and can provide more complete information to the agency, this may be a good option to initiate. See Joint Rule 41 (3) (e).

Barman, Mike

From: Barman, Mike
Sent: Tuesday, February 09, 2010 12:03 PM
To: Adrian, Scott
Subject: RE: Fiscal request

Attachments: Picture (Metafile)

Thanks ... I will submit your request to DOA. Please let me know if I can be of further assistance.

Mike Barman (Lead Program Assistant)
State of Wisconsin - Legislative Reference Bureau
Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

From: Adrian, Scott
Sent: Tuesday, February 09, 2010 11:45 AM
To: 'fes@doa.state.wi.us'; Barman, Mike
Cc: Vasby, Tara
Subject: Fiscal request

Linda and Mark:

Pursuant to Joint Rule 41 (3)(b), and at the request of Rep. Chuck Benedict, I would like to authorize a fiscal estimate on AB620 Substitute Amendment 2 (LRB Number: LRBs0253/2 - attached) from State Agencies requested: DPI, DHS

Specifically, some public health committee members were concerned about costs associated with the PACER fitness testing. The Public Health committee will be holding an exec on Thursday and the bill will likely go to the floor shortly thereafter, so expediency would be greatly appreciated.

Sincerely,



Michael J. Sheridan
Assembly Speaker

<< File: Draft ASA LPOP Final.pdf >>



HELP

Edit the Request

Add A New Request

Results: The request has been submitted to the Fiscal Estimate Coordinator with no draft/bill attached.

LRB Number: ! 09s0253/2

Introduction Number:

Description:

Comment: Per Joint Rule 41 (3)(b) a "supplemental" fiscal estimate has been requested for this substitute amendment. FE's requested from DPI & DHS. FE's needed A.S.A.P.

Public: checked if the request and draft/bill are to be public

DRAFT/BILL: Not Attached

ATTACH A RELATED DOCUMENT

Browse to choose the document you would like to attach. Click ATTACH to add the document to the request.

Note: The filename for the attachment must be 50 characters or less.

*Added
02-09-2010
9MB*